



Original: **French**

No.: **ICC-01/04-01/06**

Date: **14 April 2008**

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding Judge
Judge Philippe Kirsch
Judge Georgios M. Pikis
Judge Navi Pillay
Judge Erkki Kourula

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
THE PROSECUTOR
*v. THOMAS LUBANGA DYILO***

Public Document

**Defence Observations on the “Motion for Leave to File Proposed *Amicus Curiae*
Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of
Procedure and Evidence” Dated 10 April 2008**

Source: Mr Thomas Lubanga Dyilo's Defence Team

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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International Criminal Bar
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CONTEXT

1. On 18 January 2008, the Trial Chamber handed down an oral decision on certain issues related to redactions to material held by the Office of the Prosecutor and to the disclosure of evidence.¹
2. On 28 January 2008, the Defence filed a request seeking leave to appeal this decision.² The Prosecutor responded to this request on 1 February 2008.³
3. By decision of 6 March 2008, the Trial Chamber granted the Defence leave to appeal the oral decision on the three issues raised in its request of 28 January.⁴
4. On 17 March 2008, the Defence filed the “Defence Appeal against the Decision on Redactions and Disclosure Issued Orally on 18 January 2008”.⁵
5. On 28 March 2008, the Prosecutor filed the “Prosecution's Response to Defence Document in Support of Appeal against Oral Decision of Trial Chamber I rendered on 18 January 2008”.⁶
6. On 10 April 2008, the Defence received a motion from the International Criminal Bar for leave to file written observations⁷ as an *amicus curiae* in the appeals proceedings (hereinafter “the motion”). The International Criminal Bar’s motion pertains solely to the following issue:

¹ ICC-01/04-01/06-T-71-ENG, 18-01-2008.

² “*Requête de la Défense sollicitant l’autorisation d’interjeter appel de la Décision orale de la Chambre de première instance I rendue le 18 janvier 2008*”, ICC-01/04-01/06-1134.

³ ICC-01/04-01/06-1153.

⁴ ICC-01/04-01/06-1210.

⁵ ICC-01/04-01/06-1227 OA11-tENG.

⁶ ICC-01/04-01/06-1243 OA11.

⁷ ICC-01/04-01/06-1273 OA11, Annex A.

C) Whether the Chamber interpreted rule 77 in an excessively restrictive manner in concluding that the Prosecution is not under an obligation to provide the Defence with the material in its possession relating to the general use of child soldiers in the Democratic Republic of the Congo.

OBSERVATIONS

7. The Defence is not opposed to the International Criminal Bar filing the observations contained in Annex A to its motion submitted pursuant to rule 103.

FOR THESE REASONS, MAY IT PLEASE THE APPEALS CHAMBER:

TO TAKE FORMAL NOTE of the observations included herein.

[signed]

Ms Catherine Mabile, Principal Counsel

Done on 14 April 2008

At The Hague